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**THE IMPACT OF RESOURCES MANAGEMENT ON THE
ACHIEVEMENT OF THE NATIONAL POLICY ON THE
ENVIRONMENT AND ENVIRONMENTAL SUSTAINABILITY IN
NIGERIA**

BY

FAGBEMI SUNDAY AKINLOLU Ph.D

ABSTRACT

The paper examines the negative impact of unchecked natural resource management on the achievement of the Nigerian National Policy on the Environment and environmental resources sustainability. The paper takes the view that lack of effective resource management and developmental activities by Nigerians are responsible for various environmental challenges confronting Nigeria with concomitant health problems and uncoordinated spatial development. The paper submits that various environmental challenges in Nigeria are anthropogenic in nature. It highlights in passing the provisions of the Federal Republic of Nigeria Constitution 1999 (as amended) and the Environmental Impact Assessment Act on natural resources exploitation and developmental activities. The paper concludes among others that the Nigerian Constitution provisions on the preservation of environmental natural resource is a mere directive and advocates for the amendment of relevant provisions in the Constitution as panacea to effective resource management in Nigeria.

KEYWORDS: Impacts, Resource Management, National Policy, Environment and Sustainable Development.

1. INTRODUCTION

The Nigerian National Policy on the Environment was launched by the Government on 27 November, 1989. It was revised and enlarged in 1999 to achieve balanced cross-sectoral linkages and accommodate the environmental concerns of all sectors of the Nigerian economy. The Policy contains specific guidelines for achieving sustainable development in fourteen vital sectors of the nation's economy. These sectors are well crafted to checkmate exploitation of human and natural resources in order to achieve sustainable development, which is the main goal of the Nigerian National Policy on the Environment. The reasoning in sustainable development is to ensure that our environment is

safe for human habitation while at the same time checkmating the adverse effect of emerging environmental problems.¹ Sustainable development concept is therefore an ideal to protect the environment from pollution, degradation and or restored, replaced or restituted after degradation. The concept is fundamentally concerned with the two-way relationship between development and the environment. Hence, the attainment of sustainable development call for living a balanced life within the environment and keep environmental resources from destruction and possible extinction.

Premised on the foregoing, this paper is divided into seven sections, following this introduction, the paper examines the concept of sustainable development. In section three, the paper analyses interplay between development and environment. Section four examines the National Policy on the Environment and Principles of Sustainable Development, while section five highlights various environmental challenges resulting from unchecked natural resources management. The sixth section in passing, discusses the provisions of the Environmental Impact Assessment Act and its effectiveness on the exploitation of natural resources management and developmental activities. The paper concludes that the Nigerian Constitution provisions on the preservation of environmental natural resource is a mere directive and advocates for the amendment of relevant provisions in the Constitution as panacea to effective resource management in Nigeria.

2. THE CONCEPT OF SUSTAINABLE DEVELOPMENT

As stated earlier, the main goal of the Nigerian National Policy on the Environment is sustainable development. Sustainable development presupposes that man in his quest for survival and development should be able to draw the line between his immediate needs in term of development without

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¹ Obabori, A. O. *et al.* 'An Appraisal of the Concept of Sustainable Environment under Nigeria Law' (2009) 28 (2) *J. Hum Ecol.* 14.

jeopardizing the ability of future generations to meet their needs.² Sustainable development 'is the development that meets the needs and aspiration of the current generations without compromising the ability to meet those of future generation'.³ Sustainable development is therefore the facilitator for balancing the conservation of nature's resource *visa-vis* consumption and various development activities.

Every natural resource within the planet earth has its carrying capacity and life span. Environmental sustainability therefore means that the natural resources of the land should not be used beyond their carrying capacity for renewal. Similarly, all non-renewable resources should be guarded and used minimally to prevent their extinction. Environmental legislation therefore presupposes that law can be used to protect the environment from pollution, degradation and that the environment could be restored, replaced or restituted after degradation. The hard fact is that the existence of man on the planet earth depends on the other living and non-living organism inhabiting the earth. Man is from the earth and cannot be separated from it.⁴ Due to this fact, God gave man absolute power and rights to dominate other creatures within the ecosystem.⁵ Statutorily, this right is recognized by the African Charter on Human and People Rights of 1981. The Charter, in concrete term, provides that 'all people shall have the right to a general satisfactory environment favourable to their development'. Notwithstanding this blank cheque, there is the need to thread softly because every step taken by man has its consequences on the fauna and flora constituting the ecological system, hence, the need to

² See generally Fagbemi, S. A. 'The Concept of Sustainable Development: A Double-Edge Sword' (2014) ii (1) *Journal of Law and Diplomacy*.1.

³ Atsegbua Lawrence and Vincent Akpotaire and Folarin Dimowo, *Environmental Law in Nigeria: Theory and Practice*, (Lagos: Ababa Press Limited 2004) 54

⁴ See generally Rosenhak.R. 'Earth, Spirit and Action: The Deep Ecology Movement as Spiritual Engagement' (2006) 22 (2) *The Trumpeter: Journal of Ecosophy*, 2; Zapf, M. K, 'Social Work and the Environment: Understanding People and Place, (2010) 11 (3) *Critical Social Work*, 10.

⁵ *The Holy Bible, New International Version*, (2014), *Genesis 1:28* Lagos: Bible Society of Nigeria, p. 2.

avoid engaging in any activities that have grave consequences to the earth and other natural resources and organisms habiting it.

This note of warning was the concern of Dahl⁶ when he posits that 'the planet and all its inhabitants are today threatened by a potential global ecological crisis that is all the more dangerous because it is insidious, consisting of many separate problems with little immediate effect on daily life but whose cumulative impact and interactions may suddenly break up and render significant parts of the planet less productive or inhabitable. This is where the social roots of concept of sustainable development in the use of the natural resources of the earth lie. The principle of sustainable development requires that the environment be managed so as not to irreversibly damage the processions of nature or over taxing them. To prevent extinction and over-taxation of the natural resources, three issues that require collective attention are environmental management, environmental resources analysis and evaluation and environmental protection and conservation.⁷

Apart from the management of natural resources of the land, the concept of sustainable development also requires emphasis to be laid on how decisions and actions of today will not affect the future especially in relation to natural resources availability, environmental health and destruction of global ecosystem. This is called the principle of intergenerational equity which requires that the needs of the present generation are met without compromising the ability of future generations to meet their own needs. The solution to this calls for resources analysis and evaluation so as to determine the best method to use to guarantee renewability. Lastly, to make for protection and conservation of natural resources, the contents and spirit of the World Conservation Strategy of 1980,⁸ which defines conservation as the

⁶ Dahl, A. L. 'Social Crises and their Connections to Global Ecological Problems' *International Environmental Forum*, available at <<http://iefworld.org/ddahl94a.htm>> accessed on 25 June 2017.

⁷ Ajai, W. 'Achieving Environmental Protection through the Vehicle of Human Rights: Some Conceptual, Legal Third World Problems' (1995) 2 (1), *U. B. L. J.* 42.

⁸ See International Union for Conservation of Nature and Natural Resources, 1980.

management of natural resources in such a way that it may yield its greatest sustainable benefit to present generation, while at the same time maintaining its potential to meet the needs and aspirations of future generations must be followed to letter. Premised on this, the necessary step in the move towards sustainable development dictate that the use of the environmental natural resources must be done with circumspect. It is in realization of this that Nigeria government approved the National Policy on the Environment and made sustainable development its main objective. The ability to meet the term and mission statement in the Policy will assist in the preservation and conservation of the natural resources and guide government, the corporate entity and individual when embarking on developmental activities.

3. INTERPLAY BETWEEN DEVELOPMENT AND ENVIRONMENT

The concept 'development' is traditionally recognized as the process by which a country provides for its entire population all the basic needs of life such as: health, nutrition and housing, and provides every one with the opportunities to contribute to the very process through gainful employment as well as scientific and technological innovations.⁹ It is also a process by which the government and various authorities facilitate the construction and maintenance of the infrastructures and mechanisms which diversify and perpetuate the productive base of the country, such as: agriculture and industries.

According to the United Nations Declaration on the Right to Development, 'development' 'is a comprehensive process that involves political freedom and equality of opportunity for all in their access to basic resources namely: education, health services, food, housing, employment and the fair distribution of income. Article 1 of the Declaration on the Right to Development, 1986, asserts that: "The right to development is an inalienable human right". This

⁹ Amokaye, O.G. *Environmental Law and Practice in Nigeria*, (Akoka, Lagos: University of Lagos, 2004), 15

Declaration, had the overwhelming support of the International Community and has been gathering strength since then.¹⁰

In order to achieve various objectives in the United Nations Declaration on the Right to Development and to ensure conservation of the natural resources of the land as envisaged in sustainable development, the principles in the Declaration are subsumed in Chapter II of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). For instance, section 16 (2) (b) of the Constitution states that, 'the State shall direct its policy toward ensuring that the material resources of the community are harnessed and distributed as best as possible to serve the common good'. To ensure the realisation of sustainable development, section 17 (2) (d) of the Constitution also provides that "exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community shall be prevented'. In addition to the foregoing provisions, section 20 of the 1999 Constitution enjoins State 'to protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria'. The above are the provisions of the Nigerian constitutional objectives on nature conservation and protection of the three environmental media to achieve environmental sustainability.

To foster compliance with the above provisions, section 13 of the Constitution in concrete terms provides *inter alia* that 'it shall be the duty and responsibility of all organs of government and all authorities and persons, exercising legislative, executive or judicial powers to conform to, observe and apply the provisions of Chapter II of the Constitution'. To further support these constitutional provisions, the Federal government is signatory to many International Conventions on nature conservation. These Conventions include the Convention on International Trade in Endangered Wild Species of Fauna and Flora of 1974; The Joint Regulation on Fauna and Flora on the Lake Chad Basin of 1977; The African Convention on the Conservation of Nature and

¹⁰ Okonkwo, R. T, *The Law of Environmental Liability*, (Lagos: Afrique Environmental Development and Education, 2003), 264

Natural Resources; the Endangered Species (Control of International Trade and Traffic) Decree No. 11 of 1985; The Mineral Act of 1969; Public Land Act 1970; Chad Basin Development Authority Act of 1973 and Museum and Monumental Act of 1979

It is sad to note that the provisions of these statutory instruments are hardly taken into cognizance when embarking on developmental activities. The destruction of flora has continued at an alarming rate in Nigeria.¹¹ Again, in spite of the sweet promises in which the provisions of the Nigerian Constitution are worded, the provisions of Chapter II are not justiciable. Hence, when the government or any of her organs fail to honour the provisions, no redress can be sought in the court of law. For instance, section 6 (6) (c) of the Constitution denies the courts the power to adjudicate on any issue having to do with the enforceability of the provisions of the Fundamental Objectives and Directive Principles of State Policy. In the case of *Olubunmi Okogie (Trustees of Roman Catholic Schools) and Other v Attorney-General, Lagos State*,¹² the Court of Appeal, while considering the constitutional status of the Chapter II of the 1979 Constitution (which is *impari materia* with Chapter II of the 1999 Constitution) stated thus:

While section 13 of the Constitution makes it a duty and responsibility of the judiciary among other organs of government, to conform to and apply the provisions of Chapter II, section 6 (6) (c) of the same Constitution makes it clear that that no court has jurisdiction to pronounce on any decision as to whether any organ of government has acted or is acting in conformity with the Fundamental Objectives and Directive Principles of State Policy. It is clear therefore that section 13 has not made Chapter II of the Constitution justiciable. I am of the opinion that the obligation of the judiciary to observe the provisions of Chapter II is limited to interpreting the general provisions of Constitution or any other statute in such a way that the provisions of the Chapter are observed, but this is subject to the express provisions of the Constitution.

¹¹ Olokesusi, F. 'Environmental Legislation and Administrative in the Context of Nature Conservation in Nigeria' in Shyllon, F. (ed.), *The Law and the Environment in Nigeria*, (Ibadan: Vantage Publisher, 1989), 12

¹² (1981) 2 NCLR 337

In view of the above decision, experience has shown that, States often express some degree of non-chalance towards fulfilling obligations they owe to citizens where the mechanism for the enforcement of same are inefficient or lacking completely.¹³ This situation has been responsible for the lack of access to environmental information, inability of the public to adequately participate in the making of decisions that affect the environment and ultimately, lack of access to justice in environmental cases. The implication of this statutory road block has led to the several environmental challenges and problems bedeviling the country. These challenges are the subject matter of the next section.

4. NATIONAL POLICY ON THE ENVIRONMENT AND PRINCIPLES OF SUSTAINABLE DEVELOPMENT

As stated above the main goal of the Nigerian National Policy on the Environment is sustainable development. Taking holistic view at definition of the concept of sustainable development, Obabori,¹⁴ had argued that the concept may be seen as the facilitator for balancing the conservative of nature's resource with the needs for development. The three issues involved in the concept are: environmental management, environmental resources analysis, evaluation and protection/conservation. Also, in sustainable development, emphasis is laid on how decisions and actions of today can affect the future, especially in relation to natural resources availability, environmental health and destruction and global ecosystems.

In a consultation paper published by the United Kingdom Department of the Environment in July, 1993 against the background of a global strategy for sustainable development emerging from the Rio Conference, it was recognised that there are many ways of combining economic activity with environmental protection. According to the paper, this includes energy efficient measures, improved technology and techniques of management, better product design

¹³ Aloba, E. E and Obaji, S. P. 'Constitutional right to healthy environment as a panacea for Sustainable Development in Nigeria' (2016) 19 (2) *The Nigerian Law Journal*, 244-257: 249

¹⁴ Obabori, A. O. *et al* (n 2).

and marketing, waste minimisation, environmentally sensitive farming practice, sound decision in land use planning, improved transport efficiency, informed choice by consumers and change in individual life style.

On the whole, the United Kingdom paper actually identified empirical activities of man, a proper management of which is capable of putting sustainable development into practice. In sum total, the concept of sustainable development in the exploitation and management of nature's resources assumes the indisputable facts that:

All life on earth forms part of one single interdependent system, which influences and depends on the non-living components of the planetary rocks, soils, water and the atmosphere.

Every human being has equal rights within the limits of the earth to the resources needed for a decent standard of living and no individual or group should deprive another of his (their) means of subsistence. Each person or society is obliged to protect these resources for the mutual benefits of all.¹⁵

The ability to meet the terms as stated, will assist in the realisation of sustainable development envisage under the Nigerian National Policy on the Environment. Hence, in order to succeed, the policy developed the following sustainable development principles:

- a) The precautionary principle which holds that where there are threats of serious or irreversible damage, the lack of full scientific knowledge shall not be used as a reason for postponing cost-effective means to prevent environmental degradation;
- b) Pollution Prevention Pays Principle (3p+) which encourages Industry to invest positively to prevent pollution;
- c) The polluter pays principle (PPP) which suggests that the polluter should bear the cost of preventing and controlling pollution;
- d) The user pays principle (UPP), in which the cost of a resource to a user must include all the environmental costs associated with its extraction,

¹⁵ Atsegbua Lawrence and Vincent Akpotaire and Folarin Dimowo (n 3)

transformation and use (including the costs of alternative or future uses forgone);

- e) The principle of intergenerational equity which requires that the needs of the present generation are met without compromising the ability of future generations to meet their own needs;
- f) The principle of intra-generational equity which requires that different groups of people within the country and within the present generation have the right to benefit equally from the exploitation of resources and that they have an equal right to a clean and healthy environment; and
- g) The subsidiary principle which requires that decisions should as much as possible be made by communities affected or on their behalf by the authorities closest to them.

4.1. Policy Goal

Premised on the above principles, the National Policy on the Environment prescribes the following goals:

- a) Secure a quality of environment adequate for good health and well-being;
- b) Conserve and use the environment and natural resources for the benefit of present and future generations;
- c) Restore, maintain and enhance the ecosystems and ecological processes essential for the functioning of the biosphere to preserve biological diversity and the principle of optimum sustainable yield in the use of living natural resources and ecosystems;
- d) Raise public awareness and promote understanding of the essential linkage between the environment, resources and development, and encourage individual and community participation in environmental improvement efforts; and
- e) Co-operate in good faith with other countries, international organisations and agencies to achieve optimal use of transboundary

natural resources and effective prevention or abatement of transboundary environmental degradation.

4.2. Strategies for Implementation

In view of the problems caused by excessive pressure of the population on the land, natural and man-made resources and problems of rapid growth of urban centres, the implementation of the National Policy on the Environment depends on specific actions directed towards all sectors of the economy and problem areas of the environment. Consequently, the approach to problem-solving adopted in this Policy is predicated on an integrated, holistic and systemic view of environmental issues. For instance, the actions envisaged will establish and/or strengthen legal, regulatory, research, monitoring, evaluation, public information, and other relevant mechanisms for ensuring the attainment of the specific goals and targets of the policy. It is also expected that these strategies will lead to:

- a) the establishment of adequate environmental standards as well as the monitoring and evaluation of changes in the environment;
- b) the publication of up-to-date environmental data and the dissemination of relevant environmental information;
- c) prior environmental assessment of proposed activities which may negatively affect the environment or the use of a natural resource.

The proposed implementation strategies for the various sectors contain in the National Policy of the Environment among others is:

4.3. Natural Resources Conservation

The nation's boundaries encompass rich natural resources which are unevenly distributed. The human resources are also abundant though much of the population still lives in poverty. As a result, the natural resources are being over exploited thereby decreasing their productive potential for current and future generation. Improvement in the quality of life for the people will

require long-term economic growth which is itself dependent upon improved management and conservation of the natural resource base. Therefore, this policy will aim to pursue the following strategies:

- a) support and promote technologies that use resources more efficiently;
- b) integrate economic policies and environmental considerations in every effort to increase the benefits obtainable from natural resources;
- c) ensure that development also maintains essential ecological processes and life support systems;
- d) ensure that resource users pay the full cost of the benefits from natural resources;
- e) eliminate constraints to the sustainable utilisation of the resource base of the nation,
- f) upgrade in general, natural resource and environmental management;
- g) support national income accounting systems which include the degradation and depletion of natural resource stocks;
- h) promote co-operation to harmonise various sectoral policies;
- i) promote resource mapping and the use of remote sensing technologies for land use planning;
- j) ensure the development of shared natural resources such as rivers or their basins to make them much more sustainable

5. ENVIRONMENTAL CHALLENGES RESULTING FROM UNCHECKED RESOURCE MANAGEMENT

Environmental problems arise whenever there are changes in the total quality and quantity of any environmental factor which directly or indirectly affects the health and well-being of man adversely. Many environmental problems confronting Nigeria are those typical to developing countries. These problems had their root, amongst others, in overpopulation, urbanisation and poor

management of the natural resources within the ecological system.¹⁶ The truth of the matter is that natural resource, as its name suggests, are resources which belong to the nature. The implication of this is that these resources occur naturally and can thus be grabbed or taken by the quickest, the strongest and the most brazen.¹⁷ This impression has led to the pressure which human population placed on the natural resources resulting in catastrophic effects on the carrying capacity of these resources. This has also reflected on the degradation and various environmental challenges currently confronting the human race. For instance, as at 1 January, 2017, the population of Nigeria was estimated to be 189 559, 502 million people.¹⁸ Also, Nigeria has been classified as the sixth most populous nation in the entire world. The interaction of these millions of Nigerians with their respective environment and natural resources has left indelible mark on the landscape.¹⁹ The effects of this are manifested in various environmental challenges such as: urbanization, deforestation, land degradation, desertification, overpopulation and all kinds of pollution among others. There is no doubt that the unchecked resource management have negative impacts on the environment and on the living standard and health of human being. The causes and effects of unchecked resource management are intertwined and these are discussed below.

5.1. Urbanization

Urbanization is on-going process all over the globe. People moving from rural to urban areas are the primary cause of urbanization and history indicates that this movement of people is very hard to influence.²⁰ Urbanization is the

¹⁶ See generally Fagbemi S. A. 'An Appraisal of the Socio-Legal Implications of Population Growth on the Environment (2013) 3 *University of Ibadan, Journal of Public and International Law*, 57-71.

¹⁷ Nnimmo, B. 'Nigeria: National and Global Environmental Challenges' *Text of paper presented at ERA's Training Session for Journalist at Akure*, (Nigeria, 2013), 1.

¹⁸ <http://Countrymeters.info/en/Nigeria>. 2016

¹⁹ Omofonmwan, S. I and Osa-Edoh, G. I, 'The Challenges of Environmental Problems in Nigeria' (2008), 23 (1) *J. Hum. Ecol.*, 53.

²⁰ Weingaertner, C. 'Analyzing Synergies between Urbanisation and Sustainable Development' (Universitet Service AB, Stockholm, 2005), 1; Nsiah-Gyabaah, K.

outcome of social, economic and political developments that lead to urban concentration and growth of large cities. Urbanisation is caused by high population growth rate and rural-urban migration. Migration is the main reason for rapid growth of megacities. Migration has been going on over centuries and it is a normal phenomenon. Migration can take different forms and dimensions; it may consist of movement from rural-rural, rural-urban, urban-urban and urban-rural. All these are very important in the consideration of urbanization.

The problems associated with urbanisation is acute and exemplified by factors such as inadequate housing and infrastructure, legal dualism in land administration and control, lack of proper monitoring of physical development activities in urban areas, absence of updated master plans, uncoordinated spatial development; urban growth, decay of inner cities; land speculation and rapidly growing urban population.²¹ The problems also manifested in inefficient waste management system, emission from automobiles, industrial plants and power generating sets; gas flaring, bush and refuse burning, solid and liquid minerals extraction activities and agro chemicals are associated with urbanization. In addition to the above, several problems such as absence of efficient storm water, discharge system, ocean surge due to rise in sea, indiscriminate destruction of vegetation for fuel and constructions material are imminent in urban cities.²² For instance, land pollution through indiscriminate disposal of solid wastes provides breeding grounds for infectious disease vectors, while air pollution results in acid rains which destroy building and infrastructures. This also result in inadequate storm drains, dumping of refuses

'Urbanisation Processes – Environmental and Health Effect in Africa' Panel's Contribution to the PERN Cyberseminar on Urban Spatial Expansion, Sunyani Polytechnic, Sunyani, BS, Ghana.

²¹ Abiodun, O. *Urban and Regional Planning Problems in Nigeria*, (Ife: University of Ife Press, 1985), 14

²² Olaniran, O. J. 'Flood Generating Mechanism of Ilorin in Nigeria' (1983), *Geo-Journal*, 231-277; Ogunpa, F.G. 'Flood Disaster: An Environmental Problem or a Cultural Fiction' (1981), *Aman*, 110-120 and Nigerian Environmental Study/Action Team (NEST) 'Nigeria's Threaten Environment: A National Profile, Ibadan' (Interface Printers Ltd., 1991), 34

in drainage lines and construction of houses close to and even on the natural water channels.²³

The effects of urbanisation on the environment are quite significant. These effects among others include rapid deterioration of physical environment and provide breeding ground for prostitution, criminal and social miscreants, depletion of green areas and open spaces resulting in the loss of biodiversity. For instance, environmental conditions in cities have gradually deteriorated due to the rapid growth of the cities and the attendance inability of social services and infrastructures to keep pace with the rate of growth.²⁴

5.2. Overpopulation.

Nigeria population has grown dramatically since the last 2006 population census conducted in the country and presently estimated to be about 200 million people. Population is a major factor in all environmental related issues and challenges. For instance, overpopulation causes stress on the environment. These problems include natural resources degradation, erosion, desertification and deforestation. As the growth of mankind continues unabated, the increase in the pollution and indiscriminate cutting of the trees for timber and fire wood will dis-balance the entire ecosystem. The main concern for the unchecked population is that as human population continues to rise, it may greatly affect the environmental equilibrium and deplete both the natural and social resources of the land.

The relationship between environment and population is complex. Since the environment is the core of man's existence on the planet earth, anything that affects it must invariably affect the quality of his life. The effect of population growth on the environment therefore is proportional to the number of the

²³ Bulama, M. 'The Nigerian Built Environment Challenges' in Alabi, A. S and Epelle, S (eds) Proceedings of the first National Built Environment Summit on Built Environment Disasters: For National Action Plan Nigeria Institute of International Affairs, 8th – 11th February, 2005, (Lagos Nigeria Institute of Architects, 2005), 185-196.

²⁴ See generally Fagbemi, S. A, 'Legal and Regulatory Frameworks for Urbanisation and Urban Planning and Management in Nigeria' (2017) 20 (1) *The Nigerian Law Journal*, 334-363.

people living in it as each individual inhabitant of the environment pollutes the environment in one way or another. Due to population size, we consume resources such as land, food, water, soil and services from earth ecosystems; over consumption uses up or severely deplete supplies of non-renewable resources, such as fossil fuels and deplete renewable resources such as fisheries and forest if we use them up faster than they can replenish themselves. The glaring picture of unchecked human population growth is a recipe for doom of the planet earth and its inhabitants. Population growth has continued to take its toll on the Nigerian environment and other natural resources in the planet earth; hence, the fear now is that due to the population growth, the carrying capacity of the environment will not be able to sustain the trend.

Furthermore, in the Nigerian National Policy on Population for Development, it is observed that the present high rate of population growth is already contributing substantially to the degradation of the ecology of the country. This is evident in land fragmentation, over-farming and over- grazing resulting into soil erosion and desertification. Similarly, overcrowding has led to the spread of shanty towns and urban blight; all of which would worsen if the present population growth continues.²⁵

5.3. Desertification

Desert is barren land, waterless and treeless and often sand covered soil as Sahara desert which spread across Africa continent. Desertification is the encroachment of the desert on land that was once fertile. Apart from human factor such as indiscriminate cutting of trees for timber and fire wood, other major causes of desertification is attributable to natural hazards such as drought and sand deposits by winds. Desertification is more prominent in the Northern part of Nigeria. Given a typical example of desertification in the

²⁵ Nigerian Environmental Study/Action Team NEST, 1992; Omofonmwan, and Osa-Edoh, (n 19)

Northern part of Nigeria. For instance, between 50% and 75% of Bauchi, Borno, Gombe, Kano, Sokoto, Zamfara and Yobe States are under threats of desertification. The ten States constituting the core Northern part of Nigeria, according to the learned author, with a population of about 27 million people, account for about 38% of the country's total land areas. In these areas, population pressures, resulting from over-grazing, over exploitation for fuel wood and marginal land and aggravated drought due to global warming has accelerated the rate of desertification.²⁶

The effect of desertification on the environment and its inhabitants is dangerous, such effects always lead to famine, diseases, destruction of crops, live stocks and man himself. Desertification can be controlled through irrigation, terrace ploughing and planting of trees and grasses. However, this required committed efforts.

5.4. Land Degradation.

The intensification of the use of fragile and marginal ecosystems has led to progressive degradation and continued desertification and deforestation of marginal agricultural lands even in the years of normal rainfall. One major factor contributing to land degradation is inappropriate agricultural practices, the destruction of watersheds and the opening up of river banks and other critical areas have led to silting of river beds and loss of water courses. A typical example of this is the uncontrolled use of agro-chemicals resulting into problem of chemical pestilence in the soil in humid areas and soil crust formation in arid climates, which have contributed to salinization and destruction of vast agricultural lands.

²⁶ Halidu, M. F. 'Threat to the Nigeria Environment' *Nigeria Environmental Issues*, <ngenvirons.blogspot.com>. accessed 12 February 2016, 5 and Nigeria Country Profile Implementation of Agenda 21, (1992), Review of progress made since the United Nations Conference on Environment and Development, <<http://www.un.org.dpcsd/earthsummit>> accessed 12 March 2016, 10

Nigeria is known for her large deposit of petroleum oil. Hence, petroleum oil prospecting with its attendant pollution problems such as spills, oil well blow-out, oil blast discharge, improper disposal of drilling mud has created problems like: the loss of the aesthetic values of natural beaches due to unsightly oil slicks, damage of marine wildlife, and modification of the ecosystem through species elimination and the decay in biota (fauna and flora) succession and decrease in fishery resources among others.

The problem of exposure to radiation, creation of artificial ponds associated with bad mining practices and non-reclamation of mining wastes lands as provided for in the Mineral Act of 1958 are common in the mine fields of Jos Plateau, Enugu and other locations within the country. Furthermore, excessive pressures on available resources, infrastructure and space due to rural-urban migration and the resultant problems of urban decay and squatter settlements are evident in places like Lagos, Port-Harcourt, Umuahia, Kano, Kaduna, Maiduguri and of recent Abuja and its satellite towns.²⁷

5.5. Pollution.

Environmental pollution is another major environmental challenge in Nigeria. Pollution is the introduction by man directly or indirectly of substances or energy into the environment resulting in such deleterious effects as harm to living resources, hazard to human health, hindrances to marine activities including fishing, impairment of quality of seawater and reductions in amenities.²⁸ From this definition, man's activities on the planet earth are the major causes of environmental pollution. Environmental pollution can be categorized into three groups; these are air or atmospheric pollution, aquatic or water pollution and land or surface area pollution.

²⁷ Nigeria Country Implementation of Agenda 21, 1992)

²⁸Ibidapo-Obe, A. 'Criminal Liability for Damage Caused by Oil Pollution' in Professor Omotola, J. A. (ed), *Environmental Laws in Nigeria including Compensation*, (Lagos: Faculty of Law, University of Lagos, 1990), 231

With regard to air pollution, the World Health Organisation defines air pollution as 'limited to situation in which the outer ambient atmosphere contains materials in concentration which are harmful to man and his environment.'²⁹ Air is a mixture of basically two complementary gases: Nitrogen and Oxygen. Air pollution is the upsetting of the natural arrangement of different gases in the air. It involves the emission of harmful substances into the atmosphere, which will cause danger to any living things.³⁰ Air pollution on the environment is the most difficult and sensitive.³¹ This is because, air is invisible, intangible and fleeting, hence, it may be soiled, abused, degraded and contaminated with dangerous pollutants until it reaches hazardous, even deadly level before it is noticed.

The growth and development of industries and urbanization has contributed greatly to air pollution in Nigeria. Available data showed that Nigeria has about 5,000 registered industrial facilities and some 10,000 small scale industries operating illegally within the residential premises. Stack fumes from these industries emit nauseating gases and particulates with grave respiratory and cardiac

ailment consequences. Their physical spread often include sunlight for hours in several parts of Lagos, Kano, Enugu, and Port-Harcourt. Air inversion with its accompany foggy dispersion and visibility reduction to less than 20 metres has almost become a permanent feature of the Oko-Baba, mid-section of part of the Third Mainland Bridge in Lagos where Saw milers burn away sawdust and other wood sawing. Similar phenomenon is experienced at the toll gate end of Ile-Ife/Ibadan expressway, Osun State where thick and cloudy smoke

²⁹ World Health Organisation. 'The Impact of Development Policies on Earth' in Dianna. A. and Cooper. D, (eds) (Review of the Life nature, WHO, Geneva, 1990), 25

³⁰ Atsegbua Lawrence and Vincent Akpotaire and Folarin Dimowo n 3; Fagbemi, S. A. 'Reflections on the Causes, Effects and Legal Mechanisms for the Control of Environmental Pollution in Nigeria' (2010) 1, *University of Ibadan Journal of Public and International Law*, 147-179: 154.

³¹ Akanbi, E. O. 'Air Pollution Control Law' in Professor Omotola, J. A. (ed), *Environmental Laws in Nigeria including Compensation*, (Lagos: Faculty of Law, University of Lagos, 1990)

from the furnace of the Ife Iron Company pollutes the air and emits nauseating odour. Another such Iron Company with the same catastrophic effect is visible at Ikirun also in Osun State. The consequences of air pollution can result in suffocation, irritation of the eye, lungs and skin problem. It can also cause reduce visibility and irritate the respiratory system.

Aquatic or water pollution is the discharge of unwanted biological, chemical and physical material into water bodies from man's environment. The pollutants are usually chemical, physical and biological substances that affect the natural condition of water. The incidence is responsible for the wide spread of water contamination in most Nigeria cities. For example, in places like Kano, Kaduna and Lagos, coloured, hot and heavy metal-laden effluents especially from the textile, tannery and paint industries are discharged directly into open drain and water channels, constituting direct dangers to water users and biota downstream.

Land or surface pollution is the occurrence of unwanted material or waste on land. Land pollution means the degradation of land by man through harmful activities like dumping of harmful waste material such as chemical input that are dangerous to vegetation and agricultural products. Thus, in major Nigerian cities such as Ibadan, Lagos, Kano, Enugu, Aba, Port-Harcourt, Kaduna, Owerri and Warri, municipal solid waste heaps dot several parts of these cities blocking motor roads, alleys and pavements. These unsightly dump sites are characterized by various non-biodegradable household petrochemical products such as polythene bags, plastic container, Styrofoam packages and tyres. Furthermore, crankcases of oil discharged by mechanical workshop or mechanic villages dotting Nigeria urban cities.

The problem of environmental pollution is not limited to urban areas. It is evidently clear that the rural areas in Nigeria have had its shares of pollution in varying degree. For example, several rural towns that had in the past enjoy

fresh and dry air are currently experiencing air pollution problem.³² A good example of this is Wasinmi Village along Ile-Ife-Ibadan expressway, where a giant Asphalt and Quarry Plant is located very close to the community. Stone dust from this Plant has adverse effect on the inhabitants of the community apart from the damage it has done to the aesthetic value of this sleeping community.

6. LEGAL RESPONSES TO ENVIRONMENTAL RESOURCE MANAGEMENT

The attitude of Nigeria government to environmental challenges before 1988 was lukewarm and characterised by docility. Of course, this is not to say that before then, there was no local attempt to checkmate environmental problems. This can be seen in the various primitive's customary methods and practices adopted at the various communities to preserve and conserve the natural resources from degradation or extinction³³. This was followed by the enactment of statutory laws and regulations to address environmental problem albeit at sectorial levels. These laws include Town Improvement Act, 1863; Swamp Improvement Act, 1877; The Water Works Act, 1915; Leprosy Act, 1916; Public Health Act, 1917; Mineral Act, 1917; Forestry Ordinances, 1938; Oil in Navigable Act, 1968; Petroleum Act, 1968; Land Use Act, 1978 and Factories Act, 1987. However, the Koko incident of toxic waste dumping in 1988 was the major eye opener and a wake up alert to government on environmental problems. Ever since then, the government has entered into several bilateral and multilateral agreements, protocols, conventions, and

³² Obajimi, M. O. 'Air Pollution – A Threat to Healthy Living in Nigeria Rural Towns' *Proceeding of the Annual Conference of Environmental Prosecution Society of Nigeria*, (Ilorin, 1998), 21

³³ Amokaye, (n 9), 1; Adewale, O. 'Customary Environmental Law' in Ajomo, M. A. & Adewale, O. (eds), *Environmental Law and Sustainable Development in Nigeria*, Nigerian Institute of Advanced Legal Studies, (Lagos and British Council, 1994), 153; Ehiguelua I. *Environmental Protection Law*, (Effurun Warri: New Page Law Publishing Co. 2007), 3 and Bewaji, J. A. I. 'African Belief' in Odeneye & Shoremi (eds), *Nigeria Life and Culture*, (Ogun State University, 1995), 163-193

treaties to address environmental issues and challenges. At the National and State levels, several laws were enacted to tackle both human and natural resources management. For instance, apart from the Constitution of the Federal Republic of Nigeria 1999 (as amended), which stipulates in section 17 (2) (d) that the exploitation of human and natural resources in any form whatsoever for reasons, other than the good of the community, shall be prevented and section 20, which enjoins the state to protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria, another major municipal law that was enacted to take care of resource management in terms of project development is the Environmental Impact Assessment Act.³⁴ The provisions of the Act are highlighted below.

6.1. Environmental Impact Assessment Act

This is the core legislation that governs the environment in respect of proposed projects in Nigeria and flows directly from the provision of Principle 17 of the Rio Declaration.³⁵ According to Garner,³⁶ environmental impact assessment involves the evaluation, prediction and public discussion of the direct and indirect effects that policies, programmes and investment have on the social and national environment. Describing the procedure for environmental impact assessment, Shelton,³⁷ opined *inter alia* that environmental impact assessment is a procedure, which seeks to ensure that adequate and early information is obtained on likely environmental consequences of development projects (or processes), on possible alternatives (including not undertaking the project or avoiding the process), and on measures to mitigate harm. Premised on the

³⁴ EIA Act was promulgated as Decree No. 86 of 1992, but it has been amended and now incorporated as Cap. E12, The Laws of the Federation of Nigeria, 2004.

³⁵ Anago, I. 'Environmental Impact Assessment as tool for sustainable development: the Nigerian Experience' 7.

³⁶ Garner, J. F. 'Environmental impact assessment in U. S and U. K' (1979) *Journal of Planning and Environmental Law*. 142-145.

³⁷ Shelton, D. *Techniques and Procedures in International Environmental Law*. (Geneva, Switzerland: UNITAR, 1997). 44; Osondu, A. C., *Our common environment: understanding the environment, law and policy*. (Akoka, Lagos: University of Lagos Press, 2012.) 273.

foregoing, an environmental impact assessment is simply an assessment of the potential impacts, whether positive or negative, of a proposed project on the natural environment. These assessment, according to Osondu,³⁸ embraces element such as human health and safety, soil, air, landscape, water, climate, fauna and flora, historical monuments, cultural heritage or socio-economic conditions of the people. The Act, like the United States of American's National Environmental Policy Act (NEPA), 1969³⁹ was promulgated to protect and sustain our ecosystem. The Act is cast in terms of omnibus mandate to regulate the general principle and procedure and methods that will inform consideration for the assessment of development of both public and private projects. The EIA Act requires that private, local, state and federal agencies should consider values of environmental preservation in their spheres of activity and like NEPA prescribes certain procedural measures and principles to ensure that those values are in fact fully respected.⁴⁰

6.2. The Principles of the Environmental Impact Assessment Act.

The EIA Act is basically divided into four Parts. Part I of the Act contains the general principles of the Act with the following objectives

- a) The establishment of significant environmental effect of any project to be undertaken by any person, authority, corporate body or incorporated body including the federal, states or local governments;

³⁸ *Ibid*

³⁹ The Act was signed into law on January 1, 1970. It set forth a bold new vision for America. Acknowledging the decades of environmental neglect that had significantly degraded the nation's landscape and damaged the human environment, the law was established to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. NEPA was the first major environmental law in the United States and is often called the "Magna Carta" of Federal environmental laws. NEPA requires Federal Agencies to assess the environmental effects of their proposed actions prior to making decisions. To implement NEPA's policies, Congress prescribed a procedure, commonly referred to as "the NEPA process" or 'the environmental impact assessment process' < <https://ceq.doe.gov/> accessed 24 June 2015.

⁴⁰ Environmental Impact Assessment Act s 1; see generally Ntukekpo, D. S. 'Spillage: Bane of Petroleum, Ultimate Water Technology and Environment, 1996.

- b) The promotion of the implementation of appropriate policy in all federal lands, states and local government areas consistent with the objectives; and
- c) The encouragement of development of procedures for information exchange, notification and consultation between organs and people when proposed activities are likely to have significant effects on boundary; or translates on the environment of bordering towns and villages.⁴¹

6.3. Environmental Assessment of Projects

Part II of the Act basically covers the environmental assessment of projects, which includes:

- a) Screening and reviews and matters incidental thereto;⁴²
- b) Mandatory study, notices and council's decision;⁴³
- c) Discretionary powers of the Agency, mediation and constitution of review panels and matters incidental thereto;⁴⁴
- d) Decision of the Agency including implementation of mitigation measures, follow up programmes and certification;⁴⁵ and
- e) Trans-border matters both domestic and international; international agreements and arrangements; access to information etc.⁴⁶

6.4. Miscellaneous Provisions

This is part III of the Act and it covers the Agency's powers to issue guidelines, codes of practice and facilitating regulations, offence, penalty and interpretation etc.

⁴¹ s 1 of the Act.

⁴² ss 16-22.

⁴³ ss 23-26.

⁴⁴ ss 27-39.

⁴⁵ ss 40-42.

⁴⁶ ss 49-59.

6.5. Part Iv of Eia

This is final part and it contains schedule which stipulates the mandatory study activities. These include potential projects such as: agriculture, airport, drainage and irrigation, land reclamation, fisheries, forestry, housing, industry, infrastructure, port, mining, petroleum, power generation and transmission, quarries, railways, transportation, resort and recreational development, waste treatment and disposal and water supply.

The foregoing clearly indicates that Nigeria has a comprehensive and modern piece of legislation that should drive sustainable development. Furthermore, the Federal Environmental Agency has developed detailed procedural sectoral guidelines for ease of preparation and assessment of environmental impact assessment reports. This guideline categorises activities into:

- a) Projects requiring public review panels, extensive public consultation etc;
- b) Projects with limited potential environmental impacts, such as: electricity transmission, small scale agro based industries; tourism, rehabilitation of roads etc, and

Projects likely to have negligible or no potential environmental impacts such as education, family planning, health, nutrition etc.⁴⁷

7. CONCLUSION

The law is put in place to check human conduct and to act as agent of change. However, law cannot operate in vacuum unless the people, which it seeks to address are prepared to change or adopt new approaches in the way and manner of their reasoning. This is required in the present dispensation if the laws and policies in the protection of the environment from degradation and destruction will not become a mere day dream. This paper has highlighted various steps taken by government to ensure resource management. Of note,

⁴⁷ Ogbonna, N. J. 'Environmental impact assessment act and the construction industry in Nigeria' *Nigerian Environmental Law Review: A Publication of Nigerian Environmental Law Teachers Society*. C. A. Omaka (eds). (2010), 54-60: 58

amongst these, are the enactment of the Constitution, adoption of the Nigerian National Policy on the Environment and promulgation of the Environmental Impact Assessment Act apart from various Conventions, Protocol and Treaties to which Nigeria is a party. However, a peep into the activities of government over the years reveals little or no serious commitment to enforce these legal instruments. For instance, various succeeding administrations in Nigeria starting from the colonial to military and civilian governments placed little or no importance to environmental issues and in particular natural resource management. It is evidently clear that government has taken little or no step to identify the parties that directly or indirectly involves in environmental and resource degradation and exploitation and where done, there has never been concrete measure taken to curtail the activities.

A typical example of government lackadaisical attitude could be seen in the issue of gas flaring and oil spillage in the Niger Delta Region of the country where environmental problems, on the account of oil exploration, had inflicted and continuing to inflict tremendous damage to health and livelihood of the people of the region to the detriment of environmental sustainability.⁴⁸ Similarly, citizens adherent to statutory provisions during developmental activities and natural resources exploitation are nothing to write about. It is observed that while the concept of sustainable development has taken root in developed countries, Nigeria and other developing countries in Africa are just coming to term with the concept. Furthermore, in countries such as: India, Pakistan and Bangladesh various constitutional provisions are used to protect the environment and human rights. However, the Nigerian constitutional provisions on the preservation of environmental natural resources is a mere directive. This, it is submitted, is a big clog in the wheel of achieving a sound environmental standard as stipulated in the Nigerian National Policy on Environment as well as environmental sustainability.

⁴⁸ Adedeji, D. and Eziyi, O. I. 'Urban Environmental Problems in Nigeria: Implications for Sustainable Development' (2010) 12 (1) *Journal of Sustainable Development in Africa*, 132.